

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

GAIL GARIN, ET AL.,

Plaintiffs,

vs.

ALINS SUMANG, ET AL.

Defendants.

CIV. NO. 21-00104 DKW-WRP

ORDER SETTING SETTLEMENT
CONFERENCE

ORDER SETTING SETTLEMENT CONFERENCE

Pursuant to LR 16.5(b), all parties to this matter are ORDERED TO
APPEAR for a confidential settlement conference, on June 15, 2022 at 12:00 p.m.

In addition to the lead counsel, each party or a designated
representative with final settlement authority¹ must attend the settlement
conference. The order for parties' appearance is intended to increase the efficiency
and effectiveness of the settlement conference by reducing the time for

¹ "Final settlement authority" means that the representative at the settlement conference must be authorized to explore settlement options fully and to agree at that time to any settlement terms acceptable to the parties. See Heileman Brewing Co. v. Joseph Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989). The person should have "unfettered discretion and authority" to change the settlement position of a party. See Pitman v. Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003). The purpose of requiring a person with unlimited settlement authority to attend the conference contemplates that the person's view of the case may be altered during the face-to-face conference. Id. at 486. A limited or sum certain authority is not adequate. See Nick v. Morgan's Foods, Inc., 279 F.3d 590, 595-97 (8th Cir. 2001).

communication of offers and expanding the ability to explore options for settlement. If a defendant is insured, an adjuster or other representative of that defendant's insurer with final settlement authority also must attend the settlement conference.²

The purpose of the settlement conference is to facilitate settlement of this case, if appropriate. It will be conducted in such a manner as not to prejudice any party in the event settlement is not reached. To that end, all matters communicated to the Court in confidence will be kept confidential, and will not be disclosed to any other party, or to the trial judge.

Settlement conferences are too often unproductive because the parties have not made a serious effort to settle the case on their own prior to the conference. Accordingly, before the settlement conference, the parties are ordered to make a good faith effort to settle the case without the involvement of the Court. A good faith effort to settle includes exchanged demands and offers, as well as specific proposals and counterproposals with respect to the terms of settlement. If settlement is not achieved prior to the conference, the parties shall be prepared to

² Any request for a party or party representative to be excused from attendance must be made by letter to the Court copied to all counsel. In considering whether to grant such a request, the Court will consider the parties' settlement efforts to date and the logistics of requiring attendance. The Court is more likely to grant requests to be excused from attendance for early settlement conferences and in situations where the parties have demonstrated serious efforts to settle prior to the conference.

engage in further negotiation at the conference.

Each party shall deliver to the Court a confidential settlement conference statement no later than June 8, 2022. Unless otherwise ordered, the confidential settlement conference statement must be emailed to the Court at porter_orders@hid.uscourts.gov. The confidential settlement conference statement shall outline, at the very least, (i) a brief description of the case, (ii) impactful legal issues and factual disputes, (iii) the extent of discovery and motions practice yet to be conducted, and (iv) a status of the settlement negotiations to date.

At the settlement conference, we will first meet with all parties together and thereafter we will separate into confidential caucuses. The presentations and discussion at the settlement conference, particularly while all parties are together, shall aim only to foster settlement. That is, the settlement conference is not intended for advocating a legal or factual position in the litigation, conducting discovery, nor resolving other disputes between parties.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, SEPTEMBER 21, 2021.



A handwritten signature in black ink, appearing to be "Wes Reber Porter".

Wes Reber Porter
United States Magistrate Judge

Gail Garin, et al. vs. Alins Sumang, et al.; CIV. NO. 21-00104DKW-WRP;
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